FILE COPY.

In the Supreme Court of the United States.

OCTOBER TERM, A. D. 1906.

Office Supreme Court U. S.
FILED
OCT 9 1906
JAMES H. McKENNEY,
Clerk.

No. 143.

AMERICAN SMELTING AND REFINING COMPANY,
PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF COLORADO,
DEFENDANT IN ERROR.

MOTION TO SET CASE FOR ORAL ARGUMENT.

N. C. MILLER,
Attorney for Defendant in Error.

Smith-Brooks Press, Denver.

In the Supreme Court of the United States.

OCTOBER TERM, A. D. 1906.

No. 143.

AMERICAN SMELTING AND REFINING COMPANY,
PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF COLORADO,
DEFENDANT IN ERROR.

MOTION TO SET CASE FOR ORAL ARGUMENT.

Comes now N. C. Miller, as attorney-general of the state of Colorado, and as attorney of record for defendant in error in the above entitled cause of action, and respectfully represents to this honorable court that the said case is numbered 143 on the docket, and he is informed that it will be called for trial durinng the month of December, 1906.

He therefore prays that said cause be set for a day certain in said month, for the following reasons:

Your petitioner is the only attorney of record in said case, and is the only attorney who has participated in its trial for the state, or who is acquainted with the case for defendant in error. His term of office as attorney-general expires on the second Tuesday in January, 1907, and his time, during the month of December, is largely occupied with exacting official duties at Denver in closing his official term, preparing his biennial report, and as a member of the canvassing board and other boards of administration, besides several important suits on the docket of the Supreme Court of the state of Colorado. He can not adjust his business at home with reference to this suit unless the case is set for a day certain.

It will greatly hinder and embarrass him in the discharge of his official duties in Colorado and in the Supreme Court of that state if he is obliged to remain in Washington indefinitely awaiting the call of said case for oral argument.

The place which said case occupies on the docket will require him to be in readiness during the month of December, and as the distance from Denver to Washington requires three days' travel one way, a greater latitude of time must be made in order to be sure of being present when the said cause is reached, than if the petitioner lived in the middle or eastern states.

Further, the petitioner represents that it is necessary to try said case at as early a date as is possible, and that it will be detrimental to the interests of the state to postpone said case to a later date of the October term, 1906, for the reason that a question of state revenue is involved, and none of the large corpo-

rations doing business in the state of Colorado are paying the annual state corporation license tax involved in this litigation, but are awaiting the decision in this suit. The taxes of such corporations are in arrears from May 1, 1902, to the present time, and their failure to pay prevents the state from paying some important appropriations in favor of the School of Mines, Agricultural College and State Normal School.

The legislature meets in January, 1907, and all bills must be introduced during the first thirty days of the session, and if the arrearages are not available to make good these appropriations, the legislature should know this fact in time to take care of this deficiency in some other way.

It will be sufficient if the case is set for a day certain in December, 1906, subject, however, to the conclusion of any other case that may then be on hearing.

He therefore respectfully represents that it will be a great accommodation and benefit to the state of Colorado if the prayer of the petition be granted.

Respectfully submitted,

Attorney-General of the State of Colorado.